

Mar 02, 2020

SEAN F. MCAVOY, CLERK

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

ANTHONY L. LAWRENCE,
Petitioner,
-vs-
WARDEN MILUSNIC,
Respondent.

No. 2:19-CV-0180-WFN

ORDER DISMISSING PETITION FOR
WRIT OF HABEAS CORPUS
PURSUANT TO 28 U.S.C. § 2241

Before the Court is Mr. Lawrence's Petition for Writ of Habeas Corpus and Motion. ECF Nos. 1 and 2. The Petition is submitted by Mr. Lawrence, who is appearing *pro se* in these proceedings. Mr. Lawrence challenges the legality of his Federal sentence. "A court, justice, or judge entertaining an application for writ of habeas corpus shall forthwith award the writ or issue an order directing the respondent to show cause why the writ should not be granted, *unless it appears from the application that the applicant or person detain is not entitled thereto.*" 28 U.S.C. § 2243. (emphasis added) "No circuit or district judge shall be required to entertain an application for a writ of habeas corpus to inquire into the detention of a person pursuant to a judgment of a court of the United States if it appears that the legality of such detention has been determined by a judge or court of the United States on a prior application for writ of habeas corpus, except as provided in section 2255." 28 U.S.C. § 2244(a).

Mr. Lawrence raised a direct appeal and first § 2255 Motion in his underlying Federal criminal case shortly after judgement was entered in the case. These both were denied. He then filed a second § 2255 Motion. His counsel had advised him that he must seek and receive permission from the Ninth Circuit to file a second § 2255 Motion. 2:08-CR-0177-WFN, ECF No. 159. The Ninth Circuit never authorized this Court to

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CORPUS PURSUANT TO 28 U.S.C. § 2241 - 1

1 consider the second § 2255 Motion. Mr. Lawrence's Petition raises identical issues as his
2 second § 2255. Making the challenge pursuant to § 2241 does not eradicate the requirement
3 that Mr. Lawrence receive permission from the Ninth Circuit to pursue a second § 2255. See
4 28 U.S.C. § 2244. Until Mr. Lawrence receives permission from the Ninth Circuit to pursue
5 his ACCA/Johnson claims, this Court cannot hear the issue. The Court has reviewed the
6 file and Movant's Motion and is fully informed. Accordingly,

7 **IT IS ORDERED** that:

8 1. Mr. Lawrence's Motion Pursuant to 28 U.S.C. § 2241, filed April 29, 2019, **ECF**
9 **No. 2**, is **DENIED**.

10 2. Mr. Lawrence's Petition for Writ of Habeas Corpus, filed April 29, 2019, **ECF**
11 **No. 1**, is **DENIED**.

12 3. This case is **DISMISSED**.

13 The District Court Executive is directed to:

- 14 • File this Order,
15 • Provide copies to counsel and *pro se* Petitioner
16 • **CLOSE** the case.

17 **DATED** this 2nd of March, 2020.

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19 _____
20 WM. FREMMING NIELSEN
21 SENIOR UNITED STATES DISTRICT JUDGE

22 02-27-20